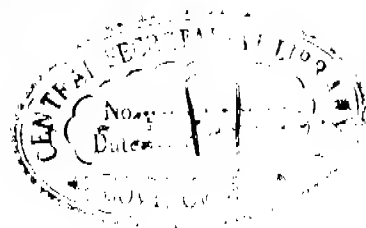


भारत का राजपत्र **The Gazette of India**

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं० 9] नई दिल्ली, बुधवार, जनवरी 15, 1976/पौष 25, 1897
No. 9] NEW DELHI, THURSDAY, JANUARY 15, 1976/PAUSA 25, 1897

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 15th January, 1976:—

BILL No. 7 OF 1976

A Bill further to amend the Delhi Land Holdings (Ceiling) Act, 1960.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delhi Land Holdings (Ceiling) Amendment Act, 1976.

Short title
and
com-
mence-
ment.

(2) It shall be deemed to have come into force on the 8th day of December, 1975.

24 of 1960.

2. In section 1 of the Delhi Land Holdings (Ceiling) Act, 1960 (hereinafter referred to as the principal Act), in sub-section (2),—

Amend-
ment of
section 1.

(a) in clause (b), for the words "owned by the Central Government", the words "owned and held by the Central Government or any State Government" shall be substituted;

(b) in clause (b), the word “and” occurring at the end shall be omitted and after that clause, the following clause shall be inserted, namely:—

“(bb) the areas owned and held by any corporation owned or controlled by the Central Government;”;

(c) for clause (c), the following clauses shall be substituted, namely:—

‘(c) the areas acquired under any law relating to the acquisition of land for a public purpose;

(d) the areas held and occupied, on the appointed day, for the purpose of a goshala or for the purpose of breeding, or feeding, or both, of horses, and, in either case, declared as such in the prescribed manner by the Chief Commissioner:

Provided that, no declaration under this clause shall be made by the Chief Commissioner in respect of an area held and occupied for the purpose of a goshala unless the goshala has been established for a charitable purpose without any motive for profit and registered as a society under the Societies Registration Act, 1860 and the entire income from such area is utilised for the purpose of the goshala:

21 of 1860.

Provided further that, when any area or any part thereof ceases to be held and occupied for the purpose referred to in this clause any declaration made under this clause, shall cease to have effect either in whole or in part, as the case may be, and the provisions of this Act shall apply to the whole or part of such area accordingly; and

(e) the areas owned and held by any agricultural co-operative land mortgage bank, any State or Central Co-operative Bank or any other bank.

Explanation.—For the purpose of this clause, “bank” means a banking company as defined in section 5 of the Banking Regulation Act, 1949 and includes the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Agricultural Refinance Corporation established under the Agricultural Refinance Corporation Act, 1963.’.

10 of 1949.

23 of 1955.

38 of 1959.

5 of 1970.

10 of 1963.

Amend-
ment of
section 2.

3. In section 2 of the principal Act,—

(a) clause (a) shall be re-lettered as clause (aa) and before that clause as so re-lettered, the following clause shall be inserted, namely:—

‘(a) “appointed day” means the 24th day of January, 1971;’;

(b) for clause (d), the following clause shall be substituted, namely:—

‘(d) “family”, in relation to a person, means the person, the wife or husband, as the case may be, and the minor sons and unmarried minor daughters of such person;’;

(c) after clause (e), the following clauses shall be inserted, namely:—

‘(ee) “orchard” means a compact area of land, having fruit bearing trees grown thereon in such number that they preclude, or when fully grown, would preclude, a substantial part of such land from being used for any agricultural purpose, but does not include any land, being a banana or guava garden or vine yard;

(eee) “person” includes a company, family, association or other body of individuals, whether incorporated or not, and any institution capable of holding property;’;

(d) in clause (h), the words ‘, “standard acre”’ shall be omitted.

4. For section 3 of the principal Act, the following section shall be substituted, namely:—

Substi-
tution
of new
section
for
section 3.

“3. (1) Subject to the provisions of this section, on and from the commencement of the Delhi Land Holdings (Ceiling) Amendment Act, 1976, no person either by himself or, if he has a family, together with any other member of his family (hereinafter referred to as the person representing the family) shall, whether as a Bhumi-dhar or an Asami or partly in one capacity and partly in another, be entitled to hold land in excess of—

Ceiling on
holding.

(a) (i) 7.25 hectares, in the case of land which is assured of irrigation from a private source of irrigation and is capable of yielding at least two crops in a year; or

(ii) 5.8 hectares, in the case of land which is assured of irrigation from a Government source of irrigation and is capable of yielding at least two crops in a year; or

(b) (i) 10.9 hectares, in the case of land which is assured of irrigation from a private source of irrigation and is capable of yielding at least one crop in a year; or

(ii) 8.7 hectares, in the case of land which is assured of irrigation from a Government source of irrigation and is capable of yielding at least one crop in a year; or

(c) 21.8 hectares, in the case of any other land, including an orchard.

(2) Where a person holds land falling under more than one category specified in sub-section (1), then, the land held by him shall be converted into land falling under category (c) and for the purpose of such conversion one hectare of land falling under category (a) (i) shall be treated as equal to 3 hectares of land falling under category (c), one hectare of land falling under category (a) (ii) shall be treated as equal to 3.75 hectares of land falling under category (c), one hectare of land falling under category (b) (i) shall be treated as equal to 2 hectares of land falling under category (c) and one hectare of land falling under category (b) (ii) shall be treated as equal to 2.5 hectares of land falling under category (c);

and the extent of the land as so converted together with the extent of the land, if any, falling under category (c) held by such person shall not exceed 21.8 hectares.

(3) For the purposes of this section, land which is assured of irrigation from a Government source of irrigation means any land which is irrigated, or is capable of being irrigated, from such source.

(4) If any question whether any land is capable of yielding only one crop or more than one crop in a year arises, such question shall be decided by such authority and in such manner as may be prescribed and the decision of such authority thereon shall be final.

(5) Where the number of members of the family of a person exceeds five, he shall be entitled to hold land in excess of the ceiling limit to the extent of one-fifth of the ceiling limit for each member in excess of five; so, however, as not to exceed twice the ceiling limit in the aggregate.

(6) Where a person is a member of a family the land held by such person together with the land held by every other member of the family, whether individually or jointly, shall be taken into account in determining the ceiling limit.

(7) A person representing a family shall also be entitled to hold land not exceeding the ceiling limit for each of his major sons, if any:

Provided that the land, if any, held by such major son or, if he has a family, by any other member of his family shall be taken into account in determining the ceiling limit for the purposes of this sub-section.

(8) Where a family holds land in excess of the ceiling limit and such land includes land held by the wife or the husband, then, the share of the wife or the husband, as the case may be, in the land that may be held by the family within the ceiling limit shall be in the same proportion as it was in the total extent of the land held by the family.

(9) Where a person is a member of a registered co-operative farming society his share in the land held by such society shall be taken into account in calculating the ceiling limit in relation to such person.”.

Amend-
ment of
section 4.

5. In section 4 of the principal Act, for the words, figures and letters “who at the commencement of this Act holds, or has at any time during the period between the 10th day of February, 1959, and such commencement held,” the words “who on the appointed day or at any time thereafter held or holds,” shall be substituted.

Amend-
ment of
section 6.

6. In section 6 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) For the purpose of determining the excess land under this section any land transferred by sale, gift or otherwise (other than a *bona fide* sale under a registered deed for valuable consideration) at any time during the period between the appointed day and the commencement of the Delhi Land Holdings (Ceiling) Amendment Act, 1976, shall, notwithstanding such transfer, be deemed to be held by the transferor and the burden of proving the transfer by sale as *bona fide* shall be on the transferor.”.

7. For section 7 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 7.

“7. (1) Where any person transfers any land by sale, gift or otherwise (other than a *bona fide* sale under a registered deed for valuable consideration) at any time during the period referred to in sub-section (2) of section 6, the excess land in relation to such person shall be selected from out of the land held by him after such transfer and in case the entire excess land cannot be so selected, the balance, or, where no land is held by him after the transfer, the entire excess land, shall be selected out of the land held by the transferee:

Selection of excess land in cases of certain transfers.

Provided that where such person has transferred his land to more than one person, the balance or the entire excess land, as the case may be, shall be selected out of the land held by each of the transferees in the same proportion as the area of the land transferred to him bears to the total area of the land transferred to all the transferees.

(2) Where any excess land is selected out of the land transferred, the transfer of such land shall be void.

7A. Notwithstanding anything contained in any other law, every suit for the specific performance of a contract for the transfer of land, instituted after the appointed day and before the commencement of the Delhi Land Holdings (Ceiling) Amendment Act, 1976 shall abate and no suit for the specific performance of any such contract entered into before such commencement shall be maintainable.”

Abatement of certain suits.

8. In section 10 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

Amendment of section 10.

“(1) Where any excess land of a Bhumidhar vests in the Government, there shall be paid by the Government to the Bhumidhar an amount calculated at the rates specified in the Table below, namely:—

THE TABLE

Class of land	Rates per hectare in rupees		
	For the first 3 hectares	For the next 3 hectares	For the remaining area
(a) Land under assured irrigation and capable of yielding at least two crops in a year	5,000	4,400	4,000
(b) Land under assured irrigation and capable of yielding at least one crop in a year	2,500	2,200	2,000
(c) Any other land (including an orchard)	1,250	1,100	1,000

Provided that where such excess land or any part thereof is in the possession of an Asami, the amount payable in respect of the land shall be apportioned between the Bhumidhar and the Asami in such proportion as may be determined by the competent authority in the prescribed manner, having regard to their respective shares in the net income from such land to be determined by the competent authority in the prescribed manner.

(2) In addition to the amount payable in respect of any excess land under sub-section (1), there shall also be paid an amount in respect of any structure or building, including wells, tube-wells and embankments constructed on such excess land and such amount shall be fifty per cent. of the market value of such structure or building and shall be paid to the person who has constructed the structure or building.”;

(b) in sub-section (3),—

(i) for the word “compensation” where it occurs in the first place, the words “an amount” and where it occurs in the second place, the word “amount” shall be substituted;

(ii) for the words, brackets and figures “sub-section (4) of section 7”, the words, brackets and figures “sub-section (2) of section 7” shall be substituted;

(c) in sub-section (4),—

(i) for the words “the compensation”, the words “the amount” shall be substituted;

(ii) the words “as compensation” shall be omitted;

(d) in sub-section (5), for the word “compensation”, the words “the amount” shall be substituted;

(e) in sub-section (6), the words “of compensation” shall be omitted.

Amendment of section 11.

9. In section 11 of the principal Act, for the word “compensation” wherever it occurs, the word “amount” shall be substituted.

Amendment of section 16.

10. In section 16 of the principal Act, for the words “to such persons”, the words and brackets “to such persons (preference being given to landless agricultural labourers particularly those belonging to the Scheduled Castes or the Scheduled Tribes)” shall be substituted.

Amendment of section 23.

11. In section 23 of the principal Act, in sub-section (1), for the words “shall be punishable with fine which may extend to one thousand rupees”, the words “shall be punishable with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees” shall be substituted.

Omission of section 26.

12. Section 26 of the principal Act shall be omitted.

Amendment of section 27.

13. In section 27 of the principal Act,—

(a) in sub-section (2),—

(i) in clauses (g), (h) and (i), for the word “compensation”, the word “amount” shall be substituted;

(ii) in clause (j), for the word "compensation", the words "any amount" shall be substituted;

(b) in sub-section (3), for the words "which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

14. (1) Subject to the provisions of sub-section (2), all proceedings relating to the determination of excess land and payment of amount therefor under the principal Act, pending, immediately before the commencement of this Act, before any authority shall be continued and disposed of in accordance with the provisions of the principal Act as it stood immediately before such commencement.

Conse-
quential
provisions.

(2) Nothing in sub-section (1) shall be deemed to entitle any person to hold after the commencement of this Act, land in excess of the ceiling limit under the principal Act as amended by section 4 of this Act, and accordingly the provisions of the principal Act as amended by this Act shall, after such commencement, apply to such person in relation to such excess land.

27 of 1975. 15. (1) The Delhi Land Holdings (Ceiling) Amendment Ordinance, 1975 is hereby repealed.

Repeal
and
Saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Government had drawn up a set of guidelines on land ceiling on the basis of the recommendations of the Chief Ministers' Conference on Ceiling on Agricultural Holdings. In order to bring the Delhi Land Holdings (Ceiling) Act, 1960 in accord with the said guidelines it was considered necessary to reduce the ceiling limit and to withdraw some of the exemptions. Since the matter was urgent and since Parliament was not in session, the President promulgated on 8th December, 1975, the Delhi Land Holdings (Ceiling) Amendment Ordinance, 1975 (27 of 1975).

The present Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;

JAGJIVAN RAM.

The 26th December, 1975.

FINANCIAL MEMORANDUM

Clause 8 of the Bill seeks to amend section 10 of the Delhi Land Holdings (Ceiling) Act, 1960. Under the proposed amendment, the amount payable for the acquisition of surplus land shall be calculated at the rates specified in the Table below sub-section (1) of that section. It is estimated that nearly 600 hectares of land would be available as surplus land. Nearly 20 per cent of this surplus area is likely to belong to category (a) specified in the Table and the amount payable therefor will be roughly six lakh of rupees. Nearly 30 per cent of the available surplus land is likely to belong to category (b) specified in the Table and the amount payable therefor will be roughly four lakh fifty thousand rupees. Nearly 50 per cent of the available surplus land is likely to belong to category (c) specified in the Table and the amount payable therefor will be roughly three lakh seventy-five thousand rupees. The amount that is likely to be payable for all the available surplus land will be Rs. 14,25,000, say nearly Rs. 14 to Rs. 15 lakhs.

2. (a) As the amount payable to the landowners on account of acquisition of surplus land is proposed to be recovered from the allottees of this land, government will have to bear no financial burden for the purpose. Since, however, payment to the landowners has to be made initially by the Government and the scheme of things envisages making provisions in the rules for the recovery of this amount from the allottees in periodic instalments, government will have initially to find an amount of Rs. 15 lakhs or so, from its own funds for making payment to the landowners. Thus, there would be an expenditure of Rs. 15 lakhs or so, to be involved by the Government, even if for a specified period only.

(b) No additional staff will be required for implementing the provisions of the Act as proposed to be amended in the two tehsils but some additional staff will be required at the headquarters to supervise implementation and for checking the statements, etc., which are required to be sent from the tehsils. This staff will consist of one naib-tehsildar, two kanungos, 4 patwaris and 2 peons. The expenditure towards the employment of the staff will be nearly Rs. 31,000. Contingent expenditure which includes the cost of printing of forms, stationary, etc., will be about Rs. 5,000 and the cost of furniture, etc., for the staff will be nearly Rs. 2,000. The total estimated expenditure on this account thus works out to nearly Rs. 38,000.

3. There will be no recurring expenditure.

Memorandum regarding modification contained in the Delhi Land Holdings (Ceiling) Amendment Bill, 1976 which seeks to repeal and replace the Delhi Land Holdings (Ceiling) Amendment Ordinance, 1975.

The Delhi Land Holdings (Ceiling) Amendment Bill, 1976 seeks to repeal and replace the Delhi Land Holdings (Ceiling) Amendment Ordinance, 1975. Clause 8 of the Bill which corresponds to section 9 of the Ordinance aforesaid seeks to amend section 10 of the Delhi Land Holdings (Ceiling) Act, 1960. Under the proviso to sub-section (1) of section 10 of the Act as proposed to be substituted by clause 8 of the Bill, where the excess land or any part thereof is in the possession of an Asami the amount payable in respect of the land shall be apportioned between the Bhumidhar and the Asami in such proportion as may be determined by the competent authority in the prescribed manner, having regard to their respective shares in the net income from such land to be determined by the competent authority in the prescribed manner. The provision regarding determination by the competent authority of the net income from the land in the prescribed manner has been newly added in this proviso, since such a provision is considered necessary.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend sub-section (2) of section 1 of the principal Act. Under clause (d) proposed to be inserted in sub-section (2), the provisions of the Act will not apply to the areas held and occupied, on the appointed day, for the purpose of a goshala or for the purpose of breeding, or feeding, or both, of horses, and, in either case, declared as such in the prescribed manner by the Chief Commissioner.

Clause 8 of the Bill seeks to amend section 10 of the principal Act. Under the proviso to sub-section (1) of that section, as proposed to be substituted by the clause, the competent authority is being empowered to apportion the amount payable in respect of the excess land between the Bhumidhar and the Asami in the prescribed manner. The competent authority is also being empowered, for the purpose of such apportionment, to determine the respective shares of the Bhumidhar and the Asami in the net income from such excess land in the prescribed manner.

The manner of declaration by the Chief Commissioner and the manner of determination by the competent authority, with respect to the matters aforesaid, are matters of procedure and detail and it is hardly practicable to provide for these matters in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 17 OF 1976

A Bill to provide for the acquisition and transfer of the right, title and interest of the Burmah Shell Oil Storage and Distributing Company of India Limited in relation to its undertakings in India with a view to ensuring co-ordinated distribution and utilisation of petroleum products distributed and marketed in India by the said company and for matters connected therewith or incidental thereto.

WHEREAS Burmah Shell Oil Storage and Distributing Company of India Limited, a foreign company, is carrying on in India the business of distributing and marketing petroleum products and has, for that purpose, established places of business at Bombay and other places in India;

AND WHEREAS it is expedient in the public interest that the undertakings in India, of Burmah Shell Oil Storage and Distributing Company of India Limited, should be acquired in order to ensure that the ownership and control of the petroleum products distributed and marketed in India by the said company are vested in the State and thereby so distributed as best to subserve the common good;

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

Short
title.

1. This Act may be called the Burmah Shell (Acquisition of Undertakings in India) Act, 1976,

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "appointed day" means the date of commencement of this Act;

1 of 1956.

(b) "Burmah Shell" means the Burmah Shell Oil Storage and Distributing Company of India Limited, a foreign company within the meaning of section 591 of the Companies Act, 1956, incorporated in England in 1928 and having its registered office at Burmah House, Pipers Way, Swindon, Wiltshire, England;

1 of 1956.

(c) "Government company" means a Government company as defined in section 617 of the Companies Act, 1956;

(d) "notification" means a notification published in the Official Gazette;

(e) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

ACQUISITION OF THE UNDERTAKINGS IN INDIA OF BURMAH SHELL

3. On the appointed day, the right, title and interest of Burmah Shell, in relation to its undertakings in India, shall stand transferred to, and shall vest in, the Central Government.

Transfer
and vest-
ing in the
Central
Govern-
ment of
the under-
takings of
Burmah
Shell in
India.

4. (1) The undertakings referred to in section 3 shall be deemed, save as otherwise provided in sub-section (3), to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, book-debts, investments and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of Burmah Shell, in relation to its undertakings in India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities (including the liability for the payment of any pension and other pensionary benefits to the persons employed in relation to its undertakings in India) and obligations of whatever kind then subsisting of Burmah Shell in relation to its undertakings in India:

General
effect of
vesting.

Provided that remittance outside India of any money for the payment of pension or other pensionary benefits shall be subject to the rules and regulations for the time being in force in relation to such remittance.

(2) The profits earned by Burmah Shell in relation to its undertakings in India from the 1st day of January, 1975, shall be payable to the Central Government.

(3) The undertakings referred to in sub-section (1) shall not include the following, namely:—

(a) any trade mark, and any right of Burmah Shell to use any trade mark in India, as specified in the First Schedule;

(b) all patents and designs registered in India in the name of Burmah Shell;

(c) the item described as 'Loans in United Kingdom from shareholders and/or their associated companies' in the accounts of Burmah Shell, filed pursuant to section 594 of the Companies Act, 1956, as at 31st day of December, 1974. 1 of 1956.

(4) Unless otherwise expressly provided by this Act, all deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the undertakings of Burmah Shell in India, subsisting or having effect immediately before the appointed day, and to which Burmah Shell is a party or which are in favour of Burmah Shell shall be of as full force and effect against or in favour of the Central Government and may be enforced or acted upon as fully and effectually as if in the place of Burmah Shell the Central Government had been a party thereto or as if they had been issued in favour of the Central Government.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature, in relation to the undertakings of Burmah Shell in India, which have been transferred to and vested in the Central Government under section 3, is pending by or against Burmah Shell, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of Burmah Shell or of anything contained in this Act, but the suit, appeal or other proceedings may be continued, prosecuted and enforced by or against the Central Government, or, where the undertaking is directed under section 7 to vest in any Government company, by or against the Government company.

Central Government to be lessee or tenant under certain circumstances.

5. (1) Where any property is held in India by Burmah Shell under any lease or under any right of tenancy, the Central Government shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Central Government, and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in, the Central Government.

(2) On the expiry of the term of any lease or tenancy referred to in sub-section (1), such lease or tenancy shall, if so desired by the Central Government, be renewed on the same terms and conditions on which the lease or tenancy was held by Burmah Shell immediately before the appointed day.

6. (1) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4 and 5 shall apply to the extent to which any property appertains to the business carried on by Burmah Shell in India; and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made, by Burmah Shell in India, and to legal proceedings relating to those matters pending in any court or tribunal in India.

Removal of doubts.

(2) If any question arises as to whether any property appertains, on the appointed day, to any business of Burmah Shell in India, or whether

any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by Burmah Shell for the purposes of its business in India, or whether any documents relate to those purposes, the question shall be referred to the Central Government which shall, after giving an opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

7. (1) Notwithstanding anything contained in sections 3, 4 and 5, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct by notification, that the right, title and interest and the liabilities of Burmah Shell in relation to any of its undertakings in India shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

Power of Central Government to direct vesting of the undertakings of the Burmah Shell in a Government Company.

(2) Where the right, title and interest and the liabilities of Burmah Shell in relation to its undertakings in India vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner, tenant or lessee, as the case may be, in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of sub-section (2) of section 5 shall apply to a lease or tenancy, which vests in a Government company, as they apply to a lease or tenancy vested in the Central Government, and reference therein to the "Central Government" shall be construed as a reference to the Government company.

8. (1) For the transfer and vesting in the Central Government, under sections 3 and 4, of the right, title and interest of Burmah Shell in relation to its undertakings in India, and for the vesting in the Central Government, under section 5, of the rights specified therein, there shall be paid by the Central Government to Burmah Shell an amount of rupees twenty-seven crores and seventy-five lakhs in such instalments and in such manner as are specified in the Second Schedule.

Payment of amount.

(2) Taxes, if any, payable in India by Burmah Shell by reason of the payment of the amount specified in sub-section (1) shall be paid by the Central Government to Burmah Shell in Indian currency, and any amount received by Burmah Shell by way of refund of taxes so paid shall be paid back by Burmah Shell to the Central Government.

(3) The amount specified in sub-section (1) shall carry interest, free of income-tax, at the rate of eight per cent. per annum from the 1st day of January, 1976, till the date of payment in the manner specified in the Second Schedule.

CHAPTER III

PROVISIONS RELATING TO EMPLOYEES OF BURMAH SHELL

Transfer
of service
of exist-
ing em-
ployees of
Burmah
Shell.

9. (1) Every whole-time officer or other employee of Burmah Shell who was, immediately before the appointed day, employed by Burmah Shell in connection with its undertakings in India, and every whole-time officer or other employee of Burmah Shell who was, immediately before the appointed day, temporarily holding any assignment outside India, shall, on the appointed day, become an officer or other employee, as the case may be, of the Central Government or the Government company in which the right, title and interest of Burmah Shell in relation to its undertakings in India have vested under this Act and shall hold office or service under the Central Government or the Government company, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company is duly terminated or until his remuneration and conditions of service are duly altered by the Central Government or the Government company.

(2) If any question arises as to whether any person was a whole-time officer or other employee of Burmah Shell, or as to whether any officer or other employee was employed wholly or mainly in connection with the undertakings of Burmah Shell, in India immediately before the appointed day, or whether any whole-time officer or other employee of Burmah Shell was temporarily holding any assignment outside India, the question shall be referred, within a period of two years from the appointed day and not thereafter, to the Central Government which shall, after giving an opportunity of being heard to the person concerned in the matter, decide it in such manner as it thinks fit and such decision shall be final.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, the Payment of Gratuity Act, 1972, or in any other law for the time being in force, the transfer of the services of any officer or other employee under sub-section (1) shall not entitle any such officer or other employee to any compensation or gratuity under those Acts or such other law, and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.
30 of 1972.

Provident,
superan-
nuation,
welfare
fund, etc.

10. (1) Where a provident, superannuation, welfare or other fund has been established by Burmah Shell for the benefit of the persons employed by it in connection with its undertakings in India, the moneys relatable to the employees—

(i) whose services are transferred by or under this Act to the Central Government or the Government company; or

(ii) who are in receipt of pension or other pensionary benefits immediately before the appointed day,

shall, out of the moneys standing, on that day, to the credit of such provident, superannuation, welfare or other fund stand transferred to, and vested in, the Central Government or the Government company, as the case may be, free from any trust that may have been constituted by Burmah Shell in respect thereof.

(2) The moneys which stand transferred, under sub-section (1), to the Central Government or the Government company shall be dealt with by the Central Government or that company, as the case may be, in such manner as may be prescribed.

(3) The Government company in which the undertakings of Burmah Shell in India are directed to be vested shall, as soon as may be after the date of vesting, constitute, in respect of the moneys and other assets which are transferred to, and vested in, it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable, so, however, that the rights and interests of the beneficiaries of the trust referred to in sub-section (1) are not, in any way, prejudiced or diminished.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in the Central Government or the Government company under this section, the trustees of such trust shall, as from the date of such vesting, stand discharged from the trust except as respects things done or omitted to be done before the date of such vesting.

CHAPTER IV

MISCELLANEOUS

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or other authority.

Effect of
Act on
other
laws.

12. (1) Where any property, appertaining to any undertaking of Burmah Shell in India has been transferred to, and vested in, the Central Government or the Government company under this Act—

Duty to
deliver
possession of
properties, etc.

(a) every person in whose possession, custody or control any such property may be, shall, on a demand by the Central Government or the Government company, as the case may be, deliver the property to the Central Government or the Government company, as the case may be, forthwith;

(b) any person who, immediately before such vesting has in his possession, custody or control any books, documents or other papers relating to the undertakings of Burmah Shell in India, shall be liable to account for the said books, documents and papers to the Central Government or the Government company, as the case may be, and shall deliver them up to the Central Government or that company or to such person as the Central Government or that company may authorise in this behalf;

(2) Without prejudice to the other provisions contained in this section, it shall be lawful for the Central Government or the Government company to take all necessary steps for taking possession of all properties which have been transferred to, and vested in, it under this Act.

Contracts
to conti-
nue un-
less termi-
nated by
Central
Govern-
ment.

13. (1) Every contract entered into by Burmah Shell for any service, sale or supply in India, and in force immediately before the appointed day, shall, unless terminated under sub-section (2) within one year from the appointed day, continue to be of full force and effect against or in favour of the Central Government or the Government company in which the undertakings of Burmah Shell in India have vested under this Act.

(2) The Central Government may, if it is satisfied that any contract referred to in sub-section (1) is unduly onerous or has been entered into in bad faith or is detrimental to the interests of that Government or the Government company, by order in writing, either terminate such contract or make such alterations or modifications therein as it may think fit.

Provided that the Central Government shall not terminate any contract or make any alteration or modification therein except after giving to the parties to the contract, a reasonable opportunity of being heard and except after recording, in writing, its reasons for such termination, alteration or modification, as the case may be.

Penalties.

14. Any person who,—

(a) having in his possession, custody or control any property forming part of any undertaking of Burmah Shell in India wrongfully withholds such property from the Central Government or the Government company; or

(b) wrongfully obtains possession of or retains any property forming part of any undertaking of Burmah Shell in India; or

(c) wilfully withholds or fails to furnish to the Central Government or the Government company or any person specified by the Central Government or that company, any books, documents or other papers relating to any undertaking of Burmah Shell in India which may be in his possession, custody or control; or

(d) fails to deliver to the Central Government or the Government company, any assets, books of account, registers or other documents in his possession, custody or control relating to any undertaking of Burmah Shell in India; or

(e) wrongfully removes or destroys any property pertaining to any undertaking of Burmah Shell in India or

(f) wrongfully uses any property forming part of the undertakings of Burmah Shell in India,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Offences
by com-
panies.

15.(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was

committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

16. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Government company or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

2 of 1974.

17. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence against this Act except on a complaint, in writing, made by the Central Government or any officer authorised in this behalf by that Government.

Cognizance of offences.

18. Every officer of the Central Government and every officer or other employee of the Government company shall be indemnified by the Central Government or the Government company, as the case may be, against all losses and expenses incurred by him in, or in relation to, the discharge of his duties under this Act except such as have been caused by his own wilful act or default.

Indemnity

19. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

20. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[See section 4(3)]

TRADE MARKS WHICH BURMAH SHELL IS ENTITLED TO USE IN INDIA AND WHICH SHALL NOT VEST IN THE CENTRAL GOVERNMENT OR THE GOVERNMENT COMPANY.

(a) The right of Burmah Shell to use in India the trade marks and other distinctive marks (including, but not confined to, trade names, styles of labelling and distinctive colour schemes) registered under the Trade and Merchandise Marks Act, 1958, by the Shell Company of India Limited or Shell International Petroleum Company Limited, being companies incorporated in England and having their registered office at Shell Centre, London, United Kingdom. 43 of 1958.

(b) The right of Burmah Shell to use in India any trade marks and other distinctive marks (including, but not confined to, trade names, styles of labelling and distinctive colour schemes) registered under the Trade and Merchandise Marks Act, 1958, by the Burmah Oil Company Limited, a company incorporated in Scotland and having its registered office at 48, St. Winston Street, Glasgow, Scotland, or by the Burmah Oil Trading Limited, a company incorporated in England and having its registered office at Burmah House, Pipers Way, Swindon, United Kingdom. 43 of 1958.

(c) All trade marks registered in India by Burmah Shell under the Trade and Merchandise Marks Act, 1958. 43 of 1958.

THE SECOND SCHEDULE

(See section 8)

1. The amount specified in section 8 shall be deemed to correspond to fifteen million two hundred and nine thousand seven hundred and seventy-two pound sterling (hereafter in this Schedule referred to as the principal amount).

2. The amount referred to in the foregoing paragraph and the interest due thereon shall be remitted by the Central Government to Burmah Shell at its principal office in the United Kingdom on the dates and in instalments specified in the corresponding entries in the Table below, namely:—

THE TABLE

Date of payment	Instalment (in pound sterling)	
	Principal	Interest
(i) 30-3-1977	3,802,443	1,513,477
(ii) 30-3-1978	3,802,443	912,586
(iii) 30-3-1979	3,802,443	608,391
(iv) 30-3-1980	3,802,443	304,195

Explanation.—In this Schedule, "pound sterling" means the unit of currency in the United Kingdom.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to acquire the undertakings in India of Burmah Shell Oil Storage and Distributing Company of India Limited, a foreign company, which has established a branch in India and which carries on the business of distributing and marketing petroleum products in India and also to take over the liabilities of Burmah Shell Oil Storage and Distributing Company of India Limited in relation to its undertakings in India. It is proposed, in the first place, to take over all the Indian assets and liabilities, (not including its trade marks and patents registered in India and the shareholders' loans) and to vest them in the Central Government. The said assets will include leases and tenancy rights held by Burmah Shell Oil Storage and Distributing Company of India Limited in India. The Bill further provides that the Central Government may, by notification, vest the said assets and liabilities in a Government company.

2. The Government has entered into negotiations with Burmah Shell for acquiring 100 per cent. of the equity shares of Burmah Shell Refineries Limited which is owned by Burmah Oil Company and Shell Petroleum Company. As soon as the acquisition of 100 per cent. shares in Burmah Shell Refineries Limited is completed, the Indian assets and liabilities of the Burmah Shell Oil Storage and Distributing Company of India Limited will be vested, by notification, in Burmah Shell Refineries Limited, which will become, after such acquisition of shares, a Government company.

3. The Bill makes incidental provisions for the transfer of the services of the existing employees of Burmah Shell Oil Storage and Distributing Company of India Limited and of the provident, superannuation and welfare funds of such employees to the said Government company. The Bill also provides that all contracts entered into by the Burmah Shell Oil Storage and Distributing Company of India Limited for any service, sale or supplies in India and in force immediately before the appointed day, shall continue, unless terminated by the Central Government. Power is given by the Bill to the Central Government to terminate certain unduly onerous contracts as provided in clause 13 of the Bill.

NEW DELHI;

K. D. MALAVIYA.

The 7th January, 1976.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. JS(P)/6/75-Pt. V/779, dated the 7th January, 1976 from Shri Keshav Deo Malaviya, Minister of Petroleum to the Secretary-General, Lok Sabha.]

The President having been informed of the subject-matter of the Bill to provide for the acquisition and transfer of the right, title and interest of Burmah-Shell Oil Storage and Distributing Company of India Limited in relation to its undertakings in India with a view to ensuring co-ordinated distribution and utilisation of petroleum products distributed and marketed in India by Burmah-Shell Oil Storage and Distributing Company of India Limited and for matters connected therewith or incidental thereto, recommends under articles 117(1) and 274(1) of the Constitution of India, the introduction of the Bill in Lok Sabha and also recommends under article 117(3) of the Constitution of India, the consideration of the Bill by Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that on the appointed day the right, title and interest of the Burmah Shell Oil Storage and Distributing Company of India Limited in relation to its undertakings in India, shall vest in the Central Government. Clause 8 of the Bill provides that for the said vesting of the right, title and interest of the Burmah Shell Oil Storage and Distributing Company of India Limited, in relation to its undertakings in India and the lease-hold and other rights which have vested in it under clause 5, there shall be paid by the Central Government to the Burmah Shell Oil Storage and Distributing Company of India Limited, an amount of Rs. 27.75 crores in such instalments and in such manner as is specified in the Second Schedule to the Bill. This amount is proposed to be paid with interest (net of tax) at the rate of 8 per cent. per annum from the 1st January, 1976, on the outstanding amounts. The Second Schedule provides that the said amount of Rs. 27.75 crores specified in clause 8 shall be deemed to correspond to pound sterling 15,209,772 and shall be payable in pound sterling. This amount is payable by the Central Government to the Burmah Shell Oil Storage and Distributing Company of India Limited at its office in the United Kingdom on the dates and in the instalments specified in the Table annexed to the Second Schedule.

The Bill, if enacted, will involve a total non-recurring expenditure of Rs. 27.75 crores on account of principal and Rs. 6,09,13,150 on account of interest which will correspond to pound sterling 15,209,772 and pound sterling 3,338,649, respectively, at the exchange rate of Rs. 100=pound sterling 5,4810 being the Commercial Banks' (SBI) Bills for collection selling rate of exchange for pound sterling prevailing on the 23rd December, 1975.

The Bill, if enacted, will not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under sub-clause (1) of clause 10 of the Bill where a provident, superannuation, welfare or other fund has been established by Burmah Shell for the benefit of the persons employed by it in connection with its undertakings in India, the moneys relatable to the employees whose services are transferred, by virtue of the provisions of the Bill, to the Central Government shall stand transferred to and vest in the Central Government.

Under sub-clause (2) of that clause, the Central Government is empowered to make rules as to the manner in which such moneys shall be dealt with by that Government. The matters in respect of which such rules may be made are matters of detail and can hardly be provided for in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

BILL No. 15 OF 1976

A Bill to provide for the incorporation, regulation and winding up of Regional Rural Banks with a view to developing the rural economy by providing, for the purpose of development of agriculture, trade commerce, industry and other productive activities in the rural areas, credit and other facilities, particularly to the small and marginal farmers, agricultural labourers, artisans and small entrepreneurs, and for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Regional Rural Banks Act, 1976.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 26th day of September, 1975.

Short
title,
extent
and
commen-
cement.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Board" in relation to a Regional Rural Bank, means the Board of directors of that Regional Rural Bank;

(b) "Chairman", in relation to a Regional Rural Bank, means the individual appointed or re-appointed under sub-section (1) of section 11 as the Chairman of that bank;

(c) "director", in relation to a Regional Rural Bank, means a member of the Board of that bank;

(d) "notified area" means the local limits, specified under sub-section (1) of section 3, within which a Regional Rural Bank shall operate;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Regional Rural Bank" means a Regional Rural Bank established under sub-section (1) of section 3;

(g) "Sponsor Bank", in relation to a Regional Rural Bank, means a bank by which such Regional Rural Bank has been sponsored;

(h) "State Government" means,—

(i) in relation to a Regional Rural Bank established in a Union territory, the Central Government;

(ii) in relation to a Regional Rural Bank established in a State, the Government of that State;

2 of 1934.

(i) words and expressions used herein and not defined but defined in the Reserve Bank of India Act, 1934, shall have the meanings respectively assigned to them in that Act;

2 of 1934.

10 of 1949.

(j) words and expressions used herein and not defined either in this Act or in the Reserve Bank of India Act, 1934, but defined in the Banking Regulation Act, 1949, shall have the meanings respectively assigned to them in the Banking Regulation Act, 1949.

CHAPTER II

INCORPORATION AND CAPITAL OF REGIONAL RURAL BANKS

3. (1) The Central Government may, if requested so to do by a Sponsor Bank, by notification in the Official Gazette, establish in a State or Union territory, one or more Regional Rural Banks with such name as may be specified in the notification and may, by the said or subsequent notification, specify the local limits within which each Regional Rural Bank shall operate.

Establish-
ment
and
incorpora-
tion of
Regional
Rural
Banks.

(2) Every Regional Rural Bank shall be a body corporate with perpetual succession and a common seal with power, subject to the pro-

visions of this Act, to acquire, hold and dispose of property and to contract and may sue and be sued in its name.

(3) It shall be the duty of the Sponsor Bank to aid and assist the Regional Rural Bank, sponsored by it, by subscribing to the share capital of such Regional Rural Bank, recruitment and training of personnel during the first five years of the functioning of the Regional Rural Bank and providing such managerial and financial assistance as may be mutually agreed upon between the Sponsor Bank and the Regional Rural Bank.

Offices and
agencies.

4. (1) A Regional Rural Bank shall have its head office at such place in the notified area as the Central Government may, after consultation with the Reserve Bank and the Sponsor Bank, specify by notification in the Official Gazette.

(2) A Regional Rural Bank may, if it is of opinion that it is necessary so to do, establish its branches or agencies at any place in the notified area.

Authorised
capital.

5. The authorised capital of each Regional Rural Bank shall be one crore of rupees, divided into one lakh of fully paid-up shares of one hundred rupees each:

Provided that the Central Government may, after consultation with the Reserve Bank and the Sponsor Bank, increase or reduce such authorised capital; so, however, that the authorised capital shall not be reduced below twenty-five lakhs of rupees, and the shares shall be, in all cases, fully paid-up shares of one hundred rupees each.

Issued
capital.

6. (1) The issued capital of each Regional Rural Bank shall be twenty-five lakhs of rupees.

(2) Of the capital issued by a Regional Rural Bank under sub-section (1), fifty per cent. shall be subscribed by the Central Government; fifteen per cent. by the concerned State Government and thirty-five per cent. by the Sponsor Bank.

(3) The Board may, after consultation with the Reserve Bank, the concerned State Government and the Sponsor Bank and with the prior approval of the Central Government, from time to time, increase the issued capital of the Regional Rural Bank; and, where additional capital is issued, such capital shall also be subscribed in the same proportion as is specified in sub-section (2).

Shares
to be
approved
securities.

7. Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of a Regional Rural Bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and shall also be deemed to be approved securities for the purposes of the Banking Regulation Act, 1949.

2 of 1882
10 of 1949.

CHAPTER III

MANAGEMENT

8. (1) Subject to the provisions of this Act, the general superintendence, direction and management of the affairs and business of a Regional Rural Bank shall vest in a Board of directors who may exercise all the powers and discharge all the functions which may be exercised or discharged by the Regional Rural Bank.

Management.

(2) In discharging its functions, the Board shall act on business principles and shall have due regard to public interest.

9. (1) The Board of directors shall consist of the Chairman appointed under sub-section (1) of section 11, and the following other members, namely:—

Board of directors.

(a) not more than three directors, to be nominated by the Central Government;

(b) not more than two directors, to be nominated by the concerned State Government; and

(c) not more than three directors, to be nominated by the Sponsor Bank.

(2) The Central Government may increase the number of members of the Board; so, however, that the number of directors does not exceed fifteen in the aggregate and also prescribe the manner in which the additional number may be filled in.

10. A director (other than the Chairman) shall hold office for such period not exceeding two years, from the date when he assumes office, as the authority nominating him may specify at the time when the nomination is made, and may, on the expiry of the said period, continue to hold office until his successor has been nominated and shall also be eligible for re-nomination.

Term of office of directors.

11. (1) The Central Government shall appoint an individual to be the Chairman of a Regional Rural Bank and specify the period, not exceeding five years, for which such individual shall, subject to the provisions of sub-section (4), hold office as the Chairman.

Chairman.

(2) The individual, appointed as a Chairman under sub-section (1), shall, on the expiry of the period specified under that sub-section, be eligible for re-appointment.

(3) The Chairman shall devote his whole time to the affairs of the Regional Rural Bank and shall have, subject to the superintendence, control and direction of the Board, the management of the whole of the affairs of the Regional Rural Bank.

(4) The Chairman shall hold office during the pleasure of the Central Government.

(5) The Chairman shall receive such salary and allowances and be governed by such terms and conditions of service as may be determined by the Central Government.

(6) If the Chairman is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent, on leave or otherwise, in circumstances not involving the vacation of office, the Central Government may appoint another individual to act as the Chairman during the absence of the first-mentioned Chairman.

Disquali-
fications.

12. A person shall be disqualified for being appointed or, as the case may be, nominated as, and for being, a director, if he—

(a) is, or, at any time has been, adjudged insolvent or has suspended payment of his debt or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government, involves moral turpitude.

Vacation
of the
seat of
directors.

13. (1) If a director—

(a) becomes subject to any disqualification specified in section 12, or

(b) is absent without leave of the Board for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.

(2) The Chairman may resign his office by giving notice thereof in writing to the Central Government and a director may resign his office by giving notice thereof to the authority by which he was nominated; and, on such resignation being accepted, the Chairman or the director, as the case may be, shall be deemed to have vacated his office.

Meetings
of Board.

14. (1) The Board of directors of a Regional Rural Bank shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman of the Regional Rural Bank shall preside over every meeting of the Board, and, in his absence, such director as the Chairman may generally, or in relation to any particular meeting, authorise in this behalf shall preside; and, in the absence of both the Chairman and the director so authorised, the directors present at the meeting shall elect one from among themselves to preside over the meeting.

Explanation.—For the purposes of this sub-section, “absence” from a meeting means non-attendance for any reason whatsoever at the meeting, or any part of the meeting during which any business is transacted.

(3) All questions at a meeting of the Board shall be decided by a majority of the votes of the directors present and voting; and, in case of equality of votes, the person presiding shall have a second or casting vote.

(4) No director shall, as a director, take part in the discussion of, or vote on, any contract, loan, arrangement or proposal, entered into or to be entered into, by or on behalf of the Regional Rural Bank, if he is, in any way, whether directly or indirectly, interested in the contract, loan, arrangement or proposal and, where a director is interested in any such matter, he shall, at the earliest possible opportunity, disclose to the

Board the nature of his interest in such contract, loan, arrangement or proposal, and where he does so, his presence at the meeting shall not count for the purpose of forming any quorum at the time of any such discussion or vote, and if he does vote, his vote shall be void:

Provided that nothing contained in this sub-section shall apply to such director by reason only of his being—

1 of 1958.

(i) a shareholder (other than a director) holding not more than two per cent. of the paid-up capital in any public company within the meaning of the Companies Act, 1956, or any corporation established by or under any law for the time being in force in India or any co-operative society, with which the Regional Rural Bank has entered into, or proposes to enter into, any contract, loan, arrangement or proposal; or

(ii) a director of the Regional Rural Bank as such.

15. The Board may constitute such committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons, as it may think fit, for such purposes as it may decide.

Committees of Board.

16. (1) Every director and every member of a committee (other than the Chairman) shall be paid such fees and allowances as may be determined by the Central Government:

Fees and allowances of directors and members of committees.

Provided that no fees shall be paid to any director, or member of a committee, if he is an officer of the Central Government, State Government, the Reserve Bank, Sponsor Bank or any other bank.

(2) The allowances payable to a director or a member of a committee, who is an officer of the Central Government, State Government, Reserve Bank, Sponsor Bank or any other bank, shall be paid by the Government or bank by which such officer is employed; and the allowances and fees payable to any other director or member of a committee shall be payable by the concerned Regional Rural Bank.

17. (1) A Regional Rural Bank may appoint such number of officers and other employees as it may consider necessary or desirable for the efficient performance of its functions and may determine the terms and conditions of their appointment and service:

Staff of Regional Rural Banks.

Provided that, it shall be lawful for a Sponsor Bank, if requested so to do by a Regional Rural Bank sponsored by it, to send, during the first five years of the functioning of a Regional Rural Bank, such number of officers or other employees on deputation to the Regional Rural Bank as may be necessary or desirable for the efficient performance of its functions:

1 of 1958.

Provided further that the remuneration of officers and other employees appointed by a Regional Rural Bank shall be such as may be determined by the Central Government, and, in determining such remuneration, the Central Government shall have due regard to the salary structure of the employees of the State Government and the local authorities of comparable level and status in the notified area.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force, no award, judgment, decree, decision or order of any industrial tribunal, court or other authority, made before the commencement of this Act, shall apply to the terms and conditions in relation to the persons appointed by a Regional Rural Bank. 14 of 1947.

(3) The officers and other employees of a Regional Rural Bank shall exercise such powers and perform such duties as may be entrusted or delegated to them by the Board.

CHAPTER IV

BUSINESS OF A REGIONAL RURAL BANK

Business which a Regional Rural Bank may transact.

18. (1) Every Regional Rural Bank shall carry on and transact the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949, and may engage in one or more forms of business specified in sub-section (1) of section 6 of that Act. 10 of 1949.

(2) Without prejudice to the generality of the provisions of sub-section (1), every Regional Rural Bank may, in particular, undertake the following types of business, namely:—

(a) the granting of loans and advances, particularly to small and marginal farmers and agricultural labourers, whether individually or in groups, and to co-operative societies, including agricultural marketing societies, agricultural processing societies, co-operative farming societies, primary agricultural credit societies or farmers' service societies, for agricultural purposes or agricultural operations or for other purposes connected therewith;

(b) the granting of loans and advances, particularly to artisans, small entrepreneurs and persons of small means engaged in trade, commerce or industry or other productive activities, within the notified area in relation to the Regional Rural Bank.

CHAPTER V

ACCOUNT AND AUDIT

Closure of accounts.

19. (1) Every Regional Rural Bank shall cause its books to be closed and balanced as on the 31st day of December of each year and shall appoint with the approval of the Central Government auditors for the audit of its accounts.

(2) Every auditor of a Regional Rural Bank shall be a person who is qualified to act as an auditor of a company under section 226 of the Companies Act, 1956, and shall receive such remuneration as the Regional Rural Bank may fix with the approval of the Central Government. 1 of 1956.

(3) Every auditor shall be supplied with a copy of the annual balance-sheet and profit and loss account of the Regional Rural Bank, and a list of all books kept by the Regional Rural Bank, and it shall be the duty of

the auditor to examine the balance-sheet and vouchers relating thereto, and, in the performance of his duties, the auditor—

(a) shall have, at all reasonable times, access to the books, accounts and other documents of the Regional Rural Bank;

(b) may, at the expense of the Regional Rural Bank, employ accountants or other persons to assist him in investigating such accounts; and

(c) may, in relation to such accounts, examine the Chairman or any officer or employee of the Regional Rural Bank.

(4) Every auditor of a Regional Rural Bank shall make a report to that bank upon the annual balance-sheet and accounts and in every such report shall state,—

(a) whether, in his opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and is properly drawn up so as to exhibit a true and fair view of the affairs of the Regional Rural Bank, and, in case he had called for any explanation or information, whether it has been given and whether it is satisfactory;

(b) whether or not, the transactions of the Regional Rural Bank, which have come to his notice, have been within the powers of that bank;

(c) whether or not, the returns received from the offices and branches of the Regional Rural Bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss account shows a true balance of profit or loss for the period covered by such accounts; and

(e) any other matter which he considers should be brought to the notice of the Regional Rural Bank.

20. Every Regional Rural Bank shall, within sixty days from the date of closure of its accounting year, send to each of its shareholders a report as to its working and activities during the accounting year immediately preceding together with a copy of its balance-sheet, profit and loss account and the auditor's report in relation to the accounts of the said accounting year.

Annual report to be furnished to the shareholders.

21. After making provisions for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other matters for which provision is, under law, necessary or which are usually provided for by banking companies, a Regional Rural Bank may, out of its net profits, declare a dividend.

Disposal of profits.

43 of 1961.

22. For the purpose of the Income-tax Act, 1961, or any other enactment for the time being in force relating to any tax on income, profits or gains, a Regional Rural Bank shall be deemed to be a co-operative society.

Regional Rural Bank to be deemed to be a co-operative society for purpose of the Income-tax Act, 1961.

Interest-tax not payable.

23. Notwithstanding anything contained in the Interest-tax Act, 1974, no Regional Rural Bank shall be liable to pay any tax under that Act. 45 of 1974.

CHAPTER VI

MISCELLANEOUS

Power of Central Government to give directions.

24. (1) A Regional Rural Bank shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Reserve Bank, give.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

Obligations as to fidelity and secrecy.

25. (1) A Regional Rural Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, it shall not divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the Regional Rural Bank to divulge.

(2) Every director, member of a committee or auditor, officer or other employee of a Regional Rural Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule to this Act.

Bar to liquidation of Regional Rural Bank.

26. No provision of law relating to the winding up of companies shall apply to a Regional Rural Bank and a Regional Rural Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Defects in appointment or constitution not to invalidate acts or proceedings.

27. (1) No act of a Chairman, acting in good faith, shall be invalid merely by reason of any defect in his appointment or in the procedure.

(2) No act or proceeding of any Board of directors or of any committee of a Regional Rural Bank shall be invalid merely on the ground of the existence of any vacancy in, or defect in the constitution of, such Board or committee, as the case may be.

(3) Acts done by a person, acting in good faith, as a director or member of a committee of a Regional Rural Bank shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision contained in any law for the time being in force:

Provided that nothing in this section shall be deemed to give validity to any act done by a director or a member of any committee of a Regional Rural Bank after his appointment has been shown to the Regional Rural Bank to be invalid or to have terminated.

Indemnity of directors, etc.

28. (1) A director or a member of a committee of a Regional Rural Bank shall not be responsible for any loss or expense caused to such bank by insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of a Regional Rural Bank or by the

insolvency or wrongful act of any customer or debtor or anything done in, or in relation to, the execution of the duties of his office, unless such loss, expense, insufficiency or deficiency was due to any wilful act or default on the part of such director or member.

(2) The Chairman of a Regional Rural Bank and every officer of the Central Government or State Government or an officer of the Reserve Bank or the Sponsor Bank and every officer or other employee of a Regional Rural Bank shall be indemnified by such bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as have been caused by his own wilful act or default.

29. (1) The Central Government may, after consultation with the Reserve Bank and the Sponsor Bank, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to
make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the additional number of members of the Board may be filled in, under sub-section (2) of section 9;

(b) the time and place at which the Board of directors of a Regional Rural Bank shall meet and the rules of procedure which shall be observed by the Board in regard to the transaction of business at its meetings, under sub-section (1) of section 14;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

30. The Board of directors of a Regional Rural Bank may, after consultation with the Sponsor Bank and the Reserve Bank, and with the previous sanction of the Central Government, make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power to
make
regula-
tions.

Removal
of difficul-
ties.

31. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of five years from the commencement of this Act.

Act
to over-
ride the
provisions
of other
laws.

32. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract, express or implied, or in any instrument having effect by virtue of any law other than this Act, and notwithstanding any custom or usage to the contrary.

CHAPTER VII

AMENDMENT OF CERTAIN ENACTMENTS

Amend-
ment of
certain
enact-
ments.

33. (1) In the Reserve Bank of India Act, 1934,—

2 of 1934

(a) in section 2,—

(i) after clause (civ), the following clause shall be inserted, namely:—

‘(cv) “Regional Rural Bank” means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976;’;

(ii) after clause (e), the following clause shall be inserted, namely:—

‘(ea) “Sponsor Bank” means a Sponsor Bank as defined in the Regional Rural Banks Act, 1976;’;

(iii) the existing clause (ei) shall be re-lettered as clause (eb);

(b) in section 45H, for the words “a co-operative bank”, the words “a Regional Rural Bank or a co-operative bank” shall be substituted;

(c) in section 46A, in sub-section (2), in clause (b),—

(i) after the words “State co-operative banks”, the words “or Regional Rural Banks” shall be inserted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that such loans and advances are fully guaranteed as to the repayment of principal and payment of interest,—

(i) in the case of loans and advances to State co-operative banks, by the State Government; and

(ii) in the case of loans and advances to a Regional Rural Bank, by the Sponsor Bank.”;

(d) in section 46B, in sub-section (2),—

(i) after the words “State co-operative banks”, the words “or Regional Rural Banks” shall be inserted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no such loans or advances shall be made—

(a) except for the purpose of enabling the Regional Rural Banks to pay any dues in respect of bills of exchange and promissory notes purchased or re-discounted by the Bank or loans and advances made to them by the Bank under section 17 and unless, in the opinion of the Bank, the Regional Rural Banks are unable to pay such dues in time owing to drought, famine or other natural calamities, and

(b) unless such loans and advances are fully guaranteed as to re-payment of the principal and payment of interest by the Sponsor Bank.”.

14 of 1947. (2) In the Industrial Disputes Act, 1947, in section 2, in clause (a), in sub-clause (i), after the words and figures “Food Corporation Act, 1964, or”, the words and figures “a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or” shall be inserted.

10 of 1949. (3) In the Banking Regulation Act, 1949,—

(a) in section 24, after sub-section (2A), the following sub-section shall be inserted, namely:—

“(2B) The Reserve Bank may, by notification in the Official Gazette, vary the percentage referred to in sub-section (2A) in respect of a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976.”;

(b) in section 34A, in sub-section (3), for the words “and any subsidiary bank”, the words and figures “a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, and any subsidiary bank” shall be substituted;

(c) in section 36AD, in sub-section (3), for the words “and any subsidiary bank”, the words and figures “a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, and any subsidiary bank” shall be substituted;

(d) in section 51, for the words “or any other banking institution notified by the Central Government in this behalf”, the words and figures “or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or any other banking institution notified by the Central Government in this behalf” shall be substituted.

46 of 1949. (4) In the Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949, in section 2, in clause (a), for the words “and any subsidiary bank”, the words and figures “a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, and any subsidiary bank” shall be substituted.

(5) In the Deposit Insurance Corporation Act, 1961,—

47 of 1961.

(a) in section 2,—

(i) in clause (g),—

(a) for the words “a banking company”, the words “a Regional Rural Bank or a banking company” shall be substituted;

(b) for the words “with a banking company”, the words “with a Regional Rural Bank or with a banking company” shall be substituted;

(ii) in clause (i), after the words “banking company”, the words “or a Regional Rural Bank” shall be inserted;

(iii) after clause (m), the following clause shall be inserted, namely:—

“(ma) “Regional Rural Bank” means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976;”;

(b) after section 11, the following section shall be inserted, namely:—

“11A. The Corporation shall register every Regional Rural Bank before the expiry of thirty days from the date of its establishment.”;

(c) in section 13, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of clauses (a), (b), (c), (d) and (h) of sub-section (1) shall apply to a Regional Rural Bank as they apply to a banking company.”;

(d) in sub-section (1) of section 14, for the words “banking company”, wherever they occur, the words “banking company, Regional Rural Bank” shall be substituted.

34. (1) The Regional Rural Banks Ordinance, 1975, is hereby repealed. 13 of 1975.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 25(2)]

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as a director, member of a committee, officer, employee or auditor (as the case may be) of the Regional Rural Bank and which properly relate to any office or position in the said Bank held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information

Registra-
tion of
Regional
Rural
Banks.

Repeal
and
savings.

relating to the affairs of the Regional Rural Bank or to the affairs of any person having any dealings with the Regional Rural Bank, nor will I allow any such person to inspect or have access to, any books or documents belonging to, or in the possession of the Regional Rural Bank and relating to the business of the Regional Rural Bank, or to the business of any person having any dealings with the Regional Rural Bank.

STATEMENT OF OBJECTS AND REASONS

The Regional Rural Banks Ordinance, 1975 (13 of 1975) was promulgated by the President to provide for the incorporation, regulation and winding up of Regional Rural Banks with a view to developing the rural economy by providing, for the purpose of development of agriculture, trade, commerce, industry and other productive activities in the rural areas, credit and other facilities, particularly to the small and marginal farmers, agricultural labourers, artisans and small entrepreneurs and for matters connected therewith and incidental thereto.

2. The Regional Rural Banks are intended to combine the local knowledge and familiarity of rural problems which the co-operatives possess and the degree of business organisation, ability to mobilise deposits, access to central money markets and a modernised outlook which the commercial banks have. This basic approach of the Regional Rural Banks will distinguish it from the co-operatives on the one hand and the existing commercial banks on the other.

3. To ensure that, in their functioning, the Regional Rural Banks observe the utmost economy, it has been statutorily provided that, in determining the remuneration of the officers and employees appointed by the Regional Rural Banks, the Central Government shall have due regard to the salary structure of the employees of comparable level and status of the State Government and the local authorities.

4. The Bill seeks to replace the Ordinance.

NEW DELHI;

PRANAB MUKHERJEE.

The 2nd January, 1976.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the authorised capital of each Regional Rural Bank shall be one crore of rupees, divided into one lakh of fully paid-up shares of one hundred rupees each. Sub-clause (1) of clause 6 of the Bill provides that the issued capital of each Regional Rural Bank shall be 25 lakhs of rupees and sub-clause (2) provides that of the capital issued by a Regional Rural Bank, 50 per cent. shall be subscribed by the Central Government, 15 per cent. by the concerned State Government and 35 per cent. by the Sponsor Bank. Sub-clause (3) of this clause provides that the Board of the Regional Rural Bank may, after consultation with the Reserve Bank of India, the concerned State Government and the Sponsor Bank and with the prior approval of the Central Government, from time to time, increase the issued capital of the Regional Rural Bank, and where additional capital is issued, such capital shall also be subscribed in the same proportion as is specified in sub-clause (2) of the clause.

2. Under the provisions of the Regional Rural Banks Ordinance, 1975, five Regional Rural Banks have already been set up with an issued capital of 25 lakhs of rupees for each of the banks. For each such bank, the Central Government subscribed 50 per cent. *i.e.* Rs. 12.50 lakhs of the issued capital. According to the present projection, 50 Regional Rural Banks are to be established by the 31st March, 1977. On the assumption that the issued capital will continue to be 25 lakhs of rupees for these banks, during the next two years, the issued capital that the Central Government shall have to subscribe will amount to Rs. 6.25 crores. Future commitment of the Central Government will depend on the decision to open more banks after the 31st March, 1977 and increasing the issued capital as contemplated in sub-clause (3) of clause 6.

3. Sub-clause (1) (a) of clause 9 provides that the Board of directors of each Regional Rural Bank shall, among others, consist of not more than three directors to be nominated by the Central Government and sub-clause (2) of this clause empowers the Central Government to increase the number of members of the Board; so, however, that the number of directors does not exceed fifteen in the aggregate and also prescribe the manner in which the additional number may be filled in. The proviso to sub-clause (1) of clause 16 of the Bill stipulates that no fees shall be paid to any director if he is an officer of the Central Government, State Government, the Reserve Bank of India, Sponsor Bank or any other bank and under sub-clause (2) of this clause the travelling allowance, etc., of the directors who are officers of the Central Government, will have to be borne by the Central Government. This will, however, be met from the budget grants of the concerned Departments of the Central Government.

4. There will be no other recurring or non-recurring expenditure that will have to be incurred from the Consolidated Fund of India if the Bill is enacted and brought into operation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill empowers the Central Government after consultation with the Reserve Bank and the Sponsor Bank, to make rules for carrying out the provisions of the Bill. The matters in respect of which such rules may be made relate to the manner in which the additional number of members of the Board may be filled in under clause 9(2) and the time and place at which the Board of directors of a Regional Rural Bank shall meet and the rules of procedure which shall be observed by the Board in regard to the transaction of business at its meetings under clause 14(1). These are matters of detail and can hardly be provided in the Bill itself.

2. The delegation of legislative power is, therefore, of a normal character.

MEMORANDUM INDICATING THE MODIFICATIONS WHICH ARE
PROPOSED TO BE MADE BY THE BILL IN THE REGIONAL
RURAL BANKS ORDINANCE, 1975.

Section 2(c).—The definition of the expression “director” is being modified so as to include the Chairman within the ambit of the expression “director”.

Section 3(3).—The words “initial period” are being substituted by the words “first five years” with a view to making the provision a specific one.

Section 6(3).—It is being provided that, before increasing the issued-capital of a Regional Rural Bank, the State Government, which is also one of the share-holders of such bank, should also be consulted.

Section 10.—In section 10, for the words “two years”, the words “not exceeding two years” are being substituted, with a view to giving the nominating-authority an option to nominate a person as a director for a period of less than two years.

Section 11(5).—It is being provided that the emoluments of the Chairman shall, instead of being prescribed by rules, be determined by the Central Government.

Section 12.—The amendment is of a consequential nature.

Section 14(4).—The amendment is of a drafting and clarificatory nature.

Section 16.—It is being provided that the fees and allowances, payable to a director and members of committees, shall, instead of being prescribed by rules, be determined by the Central Government.

Section 17(1).—In the first proviso, for the words “initial stages”, the words “first five years of the functioning of a Regional Rural Bank” are being substituted to make the provision a specific one.

In the second proviso, it is being provided that the remuneration of officers and other employees of a Regional Rural Bank shall, instead of being prescribed by rules, be determined by the Central Government.

Section 17(2).—The amendment is of a consequential nature.

Section 30(2).—The amendment is of a consequential nature.

Section 33.—A consequential amendment of section 45H of the Reserve Bank of India Act, 1934, is being included in the Bill.

Other amendments are of a formal or drafting nature.

S. L. SHAKDHER,
Secretary-General.

